

Applicant: JOHNSON *et al.*
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REMARKS

In response to the Non-Final Office Action mailed **March 25, 2011** (hereinafter "Office Action"), no claims have been amended, cancelled, or newly added by this Amendment. Therefore, claims 1, 2, 4-7, and 9 remain pending. In view of the following comments, allowance of all the claims pending in the application is respectfully requested.

37 C.F.R. § 1.173(c) STATEMENT

A. STATUS OF THE CLAIMS

Claims 1, 2, 4-7, and 9 are pending in the application.

Claims 3, 8, and 10-20 are cancelled.

More particularly:

- claims 1, 2, 7, and 9 of U.S. Patent No. 5,812,249 have each been twice amended;
- claim 5 of U.S. Patent No. 5,812,249 has been amended one time;
- claims 3 and 8 of U.S. Patent No. 5,812,249 were *previously* cancelled; and
- claims 10-20, which were newly added in the Preliminary Amendment filed on September 22, 2000, were *previously* cancelled.

B. DESCRIPTION OF (AND SUPPORT FOR) CLAIM CHANGES

By this Amendment, no claims have been amended, cancelled, or newly added.

ALLOWED CLAIM

Applicants thank the Examiner for the indication that claim 7 is allowed [Office Action, pg. 2].

REJECTIONS UNDER 35 U.S.C. § 112, ¶2

Claims 1, 2, 4, 5, 6, and 9 stand rejected under 35 U.S.C. § 112, ¶2, as allegedly being indefinite for failing to particularly point out and distinctly claim the subject matter which

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applicant regards as the invention. In particular, the Examiner alleges that the written description fails to disclose the corresponding structure, materials, or acts for the claimed functions corresponding to various means recitations [Office Action, pg. 2].

The rejection of claims 1, 2, 4, 5, 6, and 9 under 35 U.S.C. § 112, ¶2 is legally improper and should be withdrawn because the written description of the specification discloses the corresponding structure, material, or acts for the claimed functions as set forth in detail below. Exemplary (and non-limiting) citations to the Specification will reference U.S. Patent No. 5,812,249, which is the subject of the instant Reissue application.

A. INDEPENDENT CLAIM 1

In one implementation, “**vehicle emissions testing means**” may correspond, for example, to at least vehicle emissions testing unit (70) [Specification, *e.g.*, col. 5, lines 43-46, and FIGS. 1-2].

In one implementation, “**analyzing means**” may correspond, for example, to at least analyzer (20) [Specification, *e.g.*, col. 3, lines 4-18; col. 1, lines 60-63; col. 5, lines 43-46; col. 5, lines 57-63; and FIGS. 1-2].

B. DEPENDENT CLAIM 2

In one implementation, “**timing means**” may correspond, for example, to at least timer (30) [Specification, *e.g.*, col. 3, lines 19-21; and FIG. 2].

In one implementation, “**determining means**” may correspond, for example, to at least determining circuit (40) [Specification, *e.g.*, col. 3, lines 25-36; and FIG. 2].

In one implementation, “**memory means**” may correspond, for example, to at least storage circuit or memory (50) [Specification, *e.g.*, col. 3, lines 37-53; and FIG. 2].

In one implementation, “**calculating means**” may correspond, for example, to at least calculating circuit (60) [Specification, *e.g.*, col. 3, line 54 – col. 4, line 6; and FIGS. 2 & 4].

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C. INDEPENDENT CLAIM 9

In one implementation, “**means for producing**” may correspond, for example, to at least first radiation source (14) and second radiation source (15) [Specification, *e.g.*, col. 2, lines 32-50; and FIGS. 1-3].

In one implementation, “**detector means**” may correspond, for example, to at least first detector (16) and second detector (17) [Specification, *e.g.*, col. 2, lines 32-42; col. 2, line 64 – col. 3, line 3; col. 3, lines 32-36; and FIGS. 1-3].

In one implementation, “**measuring means**” may correspond, for example, to at least analyzer (20) [Specification, *e.g.*, col. 3, lines 19+; and FIGS. 1-2].

In one implementation, “**vehicle emissions testing means**” may correspond, for example, to at least vehicle emissions testing unit (70) [Specification, *e.g.*, col. 5, lines 43-46, and FIGS. 1-2].

In one implementation, “**calculating means**” may correspond, for example, to at least calculating circuit (60) [Specification, *e.g.*, col. 3, line 54 – col. 4, line 6; and FIGS. 2 & 4].

The foregoing citations to the Specification and drawing figures clearly demonstrate that the written description of the specification discloses the corresponding structure, material, or acts for the claimed functions of the various means recitations. Accordingly, the rejection of claims 1, 2, 4, 5, 6, and 9 under 35 U.S.C. § 112, ¶2 is legally improper and should be withdrawn.

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CONCLUSION

Having addressed each of the foregoing rejections, it is respectfully submitted that a full and complete response has been made to the outstanding Office Action and, as such, the application is in condition for allowance. Notice to that effect is respectfully requested.

If the Examiner believes, for any reason, that personal communication will expedite prosecution of this application, the Examiner is invited to telephone the undersigned at the number provided.

Respectfully submitted,

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